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# Witchcraft, Murder and Adultery: »Slavery as Punishment« in European writings about Atlantic Africa around 1800

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## Abstract

Scholars often state that African societies inflicted slavery on individuals as a punishment for crimes in the era of the Atlantic slave trade. Such statements are largely based on the writings of Europeans who travelled to Atlantic Africa for various reasons and in different capacities. This paper offers a close investigation of four such texts written in the late eighteenth century (two by English authors about the coast of Sierra Leone and two by French authors about the Loango Coast). It argues that »slavery as punishment« should be placed within the larger argument(s) the authors pursue in their works. Deliberations about African legal systems were not simply based on observation, experience, and investigation, but also connected to broader discourses prevalent in Europe at the time. Notions of just government (political theories) or about the »correct« way of producing knowledge (science), as well as current debates about the legitimacy of slave trading or of feudal structures played a role in how »slavery as punishment« was narrated – as did theories about the historical development of human societies. This article proposes that we can arrive at a more nuanced evaluation of European statements about African legal practices in the eighteenth century and beyond by considering these contexts.

Keywords: Angola, Sierra Leone, science, colonialism, political theory

»Slavery was a form of judicial punishment, particularly for such crimes as murder, theft, adultery, and sorcery.«<sup>1</sup> With this statement Paul Lovejoy – without a doubt an authority on the topic of »slavery« in Africa – identifies one of the ways in which individuals ended up as »slaves« in African societies. The statement – which appears frequently in the secondary literature – is primarily based on the writings of European travelers to Africa. While such writings range among the most important sources for the reconstruction of African history, scholars have increasingly discovered their value for exploring European discourse and

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<sup>1</sup> LOVEJOY (2000) 4.

knowledge production.<sup>2</sup> Following this line of inquiry, this paper investigates how European writers narrated »slavery as punishment« in some late eighteenth century texts. I am less interested in proving or disproving the accuracy of corresponding statements; rather, I will ask how they connected to the core arguments of individual texts.

To this end, I will present four texts, two of them by English authors visiting the Sierra Leone Coast, and two written by French authors about the Loango Coast. We will meet a slave trader who defended this trade against rising opposition from abolitionists (Matthews 1788); a medical doctor concerned with stripping medicine from the influence of witchcraft beliefs (Winterbottom 1803); a member of the Catholic clergy arguing that hereditary monarchy was the best form of government (Proyart 1776); and a former slave trader criticizing feudalism and sporting a daring theory about the historical origins of African societies (De Grandpré 1801). Although we will only be able to scratch the surface of what the texts have to offer, I intend to make an argument for reading these sources in a different light. Instead of simply mining them for information about historical African societies, I propose that we see them as narratives that are trying to make an argument (or possibly several arguments). The case studies are intended as spotlights: I will zoom in on a particular text, topic and author and then direct the spotlight elsewhere. I will bring the case studies together in the final section of this paper, where I suggest that »slavery as punishment« is in need of a reassessment.

## Legitimizing the slave trade

»But what have we to do with the African laws; may not the rulers in that country inflict what punishments they think proper, they are not our subjects, neither are they ever likely to become so? The genius of the people, and of [Islam], which will in all probability one day prevail throughout that extensive continent, are equally averse to the introduction of European manners or European laws.«<sup>3</sup>

The slave trader and former naval officer John Matthews arrived at the coast of Sierra Leone in September 1785 and returned to England in 1787. »Sierra Leone« is a problematic term whose meaning could shift from author to author. In the eighteenth century, it typically referred to the mouth of the Sierre Leone River and its immediate surroundings<sup>4</sup> – but Matthews' account roughly covers the coastal stretch from Sherbro Island to the Isles de Loss. He published his account *A Voyage to the River Sierra Leone* in 1788. In his preface, Matthews explains that he decided to publish the book in order to shed some light on a topic that was

<sup>2</sup> Notable examples include CHIDESTER (1996), FABIAN (2000), SONDEREGGER (2008).

<sup>3</sup> MATTHEWS (1788) 174.

<sup>4</sup> For the ambiguity of the term »Sierra Leone« see LOVEJOY/SCHWARZ (2015) 4.

currently much talked about.<sup>5</sup> This topic was the transatlantic slave trade, at that time under public scrutiny: «I find much has been said on the subject of the African trade, particularly about the inhumanity of it; I must confess I do not see it in that light.»<sup>6</sup> Before we turn to the light in which he did see it, let us take a look at how he characterized the societies he was describing – in particular how he saw their legal system.

Letter five on »religion, laws, government, and wars« primarily concerns the practices of the people Matthews had firsthand knowledge of – the coastal populations (at the time divided into the Bullom, Baga, Temne and Susu) about whom he offers mostly generalized statements. Concerning the connection between slavery and punishment he writes that people can »lose their liberty« or be »deprived of their liberty« for a crime or a debt, but that the only crime that is always punished with slavery is witchcraft. In practically all other cases, a punishment of »slavery« can be changed into a fine. In some instances, offenders have to pay the offended a slave or the value of a slave. »Slavery« usually ensues when the offender is poor and cannot otherwise acquit himself of the crime. Note that in this letter, a punishment of »slavery« is not automatically connected to the slave trade – quite the contrary, the convicted person usually becomes the »slave« of the person he or she offended. The only exception are »witches,« who according to Matthews are sold immediately.<sup>7</sup>

This changes in letter seven about »the present state and manner of the African trade,« where Matthews explains where the slaves that are sold to Europeans on the coast originate. He clarifies that they were brought to the coast from the inland:

*»[...] how such a number of slaves are procured is a circumstance which I believe no European was ever fully acquainted with. The best information I have been able to collect is that great numbers are prisoners taken in war and are brought down, fifty or a hundred together, by the black slave merchants; that many are sold for witchcraft and other real or imputed crimes [...].«<sup>8</sup> (my emphasis)*

Matthews – usually careful about relating information he has not himself been able to confirm – states quite frankly that he is not actually sure about the origin of slaves (only that they arrive from the interior). He had obviously made some inquiries, in part amongst the merchants. In the previous letter he explains that the largest part of the slaves sold on the coast were furnished by the Foolahs (traders from the Muslim state Fuuta Jalon), yet it is clear that he knew little about them.<sup>9</sup> And yet he continues the chapter by proposing that »the practice of making, buying, and selling slaves« has always existed in all of Africa and that certain crimes, in particular murder, poison, witchcraft, adultery and theft »have been punished with either death or slavery from time immemorial.«<sup>10</sup> This statement sits somewhat uneasily with the remark from his previous letter that only witchcraft was punished with slavery,

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<sup>5</sup> MATTHEWS (1788) iii.

<sup>6</sup> MATTHEWS (1788) 157.

<sup>7</sup> MATTHEWS (1788) 80-81, 124, 127.

<sup>8</sup> MATTHEWS (1788) 145-146.

<sup>9</sup> MATTHEWS (1788) 69, 74, 94.

<sup>10</sup> MATTHEWS (1788) 169.

while »poison, adultery or any other crime, may be compensated by fine.«<sup>11</sup> So in letter seven – where he argues in favor of the slave trade – he wants the reader to believe that death was the only alternative to slavery in all of Africa, while in letter six – where he talks about the legal practices of the coastal populations – Matthews notes that people convicted for a crime could offer monetary compensation instead.

The author then proclaims that even among the coastal people, at least  $\frac{3}{4}$  of the inhabitants are slaves – even more among the Mandingoes who were known to be »extremely cruel« towards their slaves.<sup>12</sup> Although Matthews distinguishes between »house slaves« and »laboring slaves« among the Maningoes and insists that many of them could not be sold, he immediately follows this statement up with »without accusing them of some crime; but for an accusation they are never at a loss.«<sup>13</sup> His assertion that slavery is a form of punishment practically anywhere in Africa, and particularly in the Sierra Leone hinterland, and that those convicted were sold to Europeans on the coast, was clearly meant to support his argument in favor of the slave trade. While he agreed that trade with Europe had created a thirst for luxuries in Western Africa, he argued that almost every crime had previously and was still punished either by slavery or by death. Would Europeans not buy these unfortunate individuals, they would be killed:

»I believe we may safely conclude that slavery can never be abolished in a country like Africa, consisting of a prodigious number of small independent states, perpetually at variance, and under no restraining form of government, where the people are of a vindictive and revengeful spirit, and where *the laws make every man a slave who was convicted of the most trifling offense.*«<sup>14</sup> (my emphasis)

The prominence of »witchcraft« as the most severe (and most frequent) crime for which people were not only sentenced to slavery but also sold to Europeans works in favor of his argument, as he does not believe witchcraft to be real (this is obvious in his long discussion of the practice of »interrogating a corpse« to find out who was responsible for a person's death).<sup>15</sup> Thus pointing out that people were punished for something like witchcraft confirmed his argument that the »African laws« were unjust. Matthews takes what he learned about criminal law among the societies he was in contact with, combines it with information collected from local informants about the (Muslim) inland peoples who procure slaves for sale to Europeans, then generalizes the information even further to include the entire continent: the laws in Africa were unjust and the slave trade saved lives. It was unlikely – if not impossible – that Europeans could change these laws – in fact, Islam would probably spread even further, the

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<sup>11</sup> MATTHEWS (1788) 80-81.

<sup>12</sup> Europeans called Manding- and Mande-speaking traders who had migrated from the interior »Mandingos.« Matthew's statement that  $\frac{3}{4}$  of the population were slaves is frequently quoted in the literature. Although Bruce Mouser believes the percentage to be »likely exaggerated,« he does not seem to contest the general notion that the Baga/Bullom and Susu societies consisted largely of »slaves.« MOUSER (2007) 34-35.

<sup>13</sup> MATTHEWS (1788) 153-154.

<sup>14</sup> MATTHEWS (1788) 146-148.

<sup>15</sup> MATTHEWS (1788) 121-129.

even harsher laws of the inland kingdoms would be implemented everywhere, and European influence would grow weaker.

Matthews left Sierra Leone in the same year the British established a settlement there (1787). It was intended as a new home for London's »black poor« on West African soil. This first attempt quickly failed; five years later (1792), the newly created Sierra Leone Company gave it another try and founded Freetown, which was peopled with settlers from England and former slaves from Nova Scotia who were to establish an agricultural colony that would eventually develop into the British base of abolitionist operations in the first decades of the nineteenth century.<sup>16</sup> Thomas Winterbottom, our next case study, travelled to Sierra Leone as part of this settlement party – and in an entirely different context.

## Blaming witchcraft beliefs

»In the *Encyclopédie Methodique* there is an interesting detail of the superstitious practices of the vulgar in France and of their firm adherence to the use of amulets and charms [...] it affords so striking a picture of African superstition that we might be almost tempted to believe it had been applied by mistake to the more polished natives of France.«<sup>17</sup>

Thomas Winterbottom (1766–1859) arrived in Sierra Leone in 1792 and would stay there for four years as the Sierra Leone Company's physician. After his return to England, he published *An Account of the Native Africans in the Neighbourhood of Sierra Leone* in 1803. Despite being known as an abolitionist, Winterbottom is not primarily concerned with illustrating the injustice of the slave trade or of slavery. That he is not in favor of either is clear from several remarks spread throughout the text – but he does not feel the need to formulate a larger argument or contribute to a debate about the legitimacy of the slave trade, as Matthews had previously done.

Winterbottom's primary concerns are of a different nature. Like Matthews, his explicit goal is to correct what he considered false information – in his opinion based on prejudice and superficial observation – about a region in which he had spent much time.<sup>18</sup> Winterbottom indeed considered the slave trader Matthews a reliable and authoritative source (»an author of respectability«<sup>19</sup>) exactly for that reason: Matthews knew the region and had also set out to debunk some »myths« put forth by other authors. The fact that Matthews was a slave trader is nowhere discussed in Winterbottom's book, let alone the veracity of his account questioned on that basis. Although Winterbottom in general acknowledges his sources and

<sup>16</sup> For a detailed account, see FYFE (1962), 13–87.

<sup>17</sup> WINTERBOTTOM (1803a) 261.

<sup>18</sup> WINTERBOTTOM (1803a) iii.

<sup>19</sup> WINTERBOTTOM (1803a) 168.

in several instances refers to Matthews' work, he does not quote him in the chapter on laws and government. Yet the contents of these chapters are very similar, and it is highly likely that Winterbottom used it as a reference work, possibly even as a guideline on what to include in the chapter.

Winterbottom was a medical doctor; his publication consists of two separate books (volumes) and was, according to the author, initially intended as only one book on »the state of medicine among them.«<sup>20</sup> Volume 1 of the work essentially consists of all the material that goes beyond medicine and diseases. However, Volume 2 on medicine helps us to understand the topics covered and arguments put forth in Volume 1: For one thing, Winterbottom is more explicit in Volume 2 about his lack of language skills – from reading Volume 1 one gets the impression that he was rather fluent in the languages of the coastal populations (in part because he attached vocabularies to it), but his comments in Volume 2 cast serious doubt on this.<sup>21</sup> Second, even more than Matthews, Winterbottom is concerned with the subject of witchcraft, which connects to the primary topic of his book: medicine.

It is not a coincidence that the first volume ends with a chapter on the close link between »magic« and »medicine« in African societies and the second volume begins with a chapter that considers the same subject. The notion of »witchcraft« in European writings about Africa is a highly complex one, characterized by the contradictory usage of the terms »witch,« »witchcraft,« and »magic.« In a nutshell, Winterbottom – like other authors – claims three things: First, that Africans believe everyone who practices medicine to be a witch; second, that the same people who practice medicine also »make greengreases and fetishes, in other words amulets« intended to resist acts of witchcraft and third, that they believe all disease, accidents or misfortune (as well as death) to be caused by witchcraft.<sup>22</sup> It is this third category that Winterbottom has in mind when he tells us, repeatedly and in no uncertain terms, that the crime of witchcraft inevitably leads to slavery.<sup>23</sup>

Except in the case of witchcraft, Winterbottom – like Matthews – is somewhat inconsistent about which crimes are punishable by slavery – and even this seemingly clear case is confusing on close inspection. Winterbottom asserts that criminal cases are in general tried by a public trial or *palaver* and that »slavery is the usual punishment.«<sup>24</sup> In another instance, however, he declares that there are three types of crimes »in which the life or liberty of the accused are endangered:« the use of impertinent language towards a superior, witchcraft, and adultery. If found guilty, the accused may nevertheless prove their innocence by submitting to the red water ordeal – the drinking of a poisonous substance. The accused publicly ingests the prepared concoction, which is expected to produce vomiting. If, instead, the concoction causes violent pains in the bowels, he or she is guilty. If the accused dies from the concoction, a member of the family (or a dependent) is sold instead. The same occurs when the accused

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<sup>20</sup> WINTERBOTTOM (1803a) iv.

<sup>21</sup> WINTERBOTTOM (1803b) 2-3.

<sup>22</sup> WINTERBOTTOM (1803a) 251, 256, 260.

<sup>23</sup> WINTERBOTTOM (1803a) 133, 139-141, 238.

<sup>24</sup> WINTERBOTTOM (1803a) 128.



is too old to sell.<sup>25</sup> As can be gleaned from this short summary, Winterbottom indeed proclaims that the culprit does not simply become the slave of the offended, but that he or she is subsequently sold – presumably to European slave traders. He also claims that those who have been proven guilty by the red water ordeal and still proclaim their innocence/refuse to confess are put to death.<sup>26</sup>

Winterbottom understands the connection between witchcraft and medicine to be typical for »barbarous« and »uncivilized« peoples. He continuously compares practices and beliefs in time and space, discovering the same practices not only among other African societies, but also in scripture, ancient Rome, amongst several Amerindian populations – and in historical Europe. He writes:

»[...] not more than a century ago the same ridiculous notions very generally prevailed and were universally credited in Europe. Paracelsus believed implicitly in the power of witchcraft. What he has said upon the subject is courteous and *presents a very exact picture of African superstition*. His opinion of witches *perfectly coincides* with that of the Bulloms and Timmanees. He also informs us how to cure these, by forming a waxen image, in the same manner as the obia professors in the West Indies.«<sup>27</sup> (my emphasis)

Winterbottom looks to other writings to frame – and to understand – the social practices of the people he is describing. Working from a theory of anthropological sameness, he bestows Europe's past with explanatory power for current African societies – and vice versa.<sup>28</sup> Both served to confirm the superiority of current European knowledge production: medicine should be disconnected from »witchcraft.« Carving out a distinction between categories such as »witchcraft« and »religion« as opposed to »science« and »secular« serves to establish the latter two as the realm of reality and objective fact – thereby disguising that these are also cultural constructs based on ideological assumptions.<sup>29</sup> By locating »witchcraft« in African societies in law (the secular) and medicine (science), Winterbottom thus discredits African social institutions while at the same time confirming the superiority of current European ones. As indicated in this section's opening quote, Winterbottom also locates remnants of such »superstitious practices« in Europe: amongst »the vulgar« parts of society. Even worse, according to Winterbottom, Europeans who spent too much time on the coasts of Africa, also came to adopt a belief in witchcraft.<sup>30</sup> Yet there is another reason why he attacks witchcraft believes: he blames the connection between medicine and witchcraft for the unwillingness of his informants to divulge details about medical practice.<sup>31</sup> It was exactly their

<sup>25</sup> WINTERBOTTOM (1803a) 131-133.

<sup>26</sup> WINTERBOTTOM (1803a) 140-141.

<sup>27</sup> WINTERBOTTOM (1803a) 252-253. See also WINTERBOTTOM (1803b) 4, 6.

<sup>28</sup> Earlier examples for the comparative method of analyzing human societies based on the idea of anthropological sameness include Jean Bodin and to a certain extent also Machiavelli. See ZWIERLEIN (2020) 23, 120. On the practice of comparison see CHIDESTER (1996).

<sup>29</sup> For an overview of this argument see FÜHRDING (2015) 60-63.

<sup>30</sup> WINTERBOTTOM (1803a) 261, 264-265.

<sup>31</sup> WINTERBOTTOM (1803a) 2.



»superstitions« that made them hide this vital information from the European scientist. For Winterbottom, the people's belief in witchcraft not only leads to unjust enslavement – it also hampers the progress of science.

Separating science from witchcraft – or religion – was of no concern to our next author, the abbot Proyard. Neither was he interested in defending or attacking the slave trade. With the French clergyman we move very far away from the Sierra Leone coast, down to what is now the coast of Angola. In their books about the small kingdoms just north of the Zaire river, two Frenchmen took the opportunity to comment on recent developments in their own country...

## The best type of government

»[...] and if these so-called Sages, who fancy themselves the teachers of humankind, in matters of government as in religion, would have acquired their political education in these countries [...] they would not attack in their audacious writings the wisest form of government in existence to assure the happiness and tranquility of the people [...].«<sup>32</sup>

Published in 1776, *Histoire de Loango, Kakongo, et autres Royaumes d'Afrique*, was one of the earliest books published by Liévin-Bonaventure Proyard (1743–1808), a member of the Catholic clergy who would later achieve fame as a counter-revolutionary and monarchist, and a biographer of Maximilien Robespierre. Proyard had not been to Africa himself; the book was compiled from a number of missionary writings, notably that of Jean-Joseph Descourvières, prefect of the French mission to Loango in the late 1760s.<sup>33</sup> Like Matthews and Winterbottom, Proyard's explicit goal is to show that the people inhabiting the kingdoms north of the Zaire river (located in today's Cabinda Province of Angola and in the DR Congo) had been misrepresented in previous accounts, largely because the people reporting on them lacked first-hand knowledge – and the necessary language skills.

Throughout the book, Proyard polemicizes against the »modern philosophes«, »ces prétendus Sages,« who claimed to represent rationality and humanity, but then described the African societies they encountered in an unflattering and degrading light, based on questionable evidence.<sup>34</sup> A particular criticism is directed against volume 12 of the physiocrat Pierre-Joseph-André Roubaud's *L'Histoire générale de l'Asie, de l'Afrique & de l'Amerique* (1771).<sup>35</sup> The desire to show that missionary activity on the Loango coast was both necessary and likely to be fruitful (considering the high mortality rates an important concern), informed the

<sup>32</sup> PROYART (1776) 132-133.

<sup>33</sup> Despite this, I will refer to Proyard as the author of the work. Descourvières' report and other writings Proyard used for the book have been published in CUVELIER (ed.) (1953).

<sup>34</sup> PROYART (1776) 4, 24, 61, 79, 80, 132, 190.

<sup>35</sup> PROYART (1776) 70-71, 110, 170.

portrayal of the people in this region – and of their rulers. We repeatedly read that the missionaries were welcomed enthusiastically and that local authorities not only allowed them to remain in the country, but even provided them with land, manpower, and provisions.

Already on the very first pages, Proyart rejects common stereotypes about African societies in general and the origin of slaves in particular – and he mentions »slavery as punishment« in the process: »It is believed that the father sells his son, the Prince his subjects; only those who have lived among them know that a master is not allowed to sell his slave, if he was born in the kingdom, unless he has attracted this punishment for certain crimes specified in the law.«<sup>36</sup> According to Proyart, the societies under investigation consider adultery the greatest crime, as they believe marriage to be indissoluble. Even so, according to Proyart, if the woman confesses her infidelity to her husband she is spared, but if she names her accomplice, the husband can put him on trial. The culprit is then usually sentenced to become the wronged husband's slave (unless he is rich enough to buy himself out).<sup>37</sup> These deliberations about the crime of adultery appear in a passage that seeks to prove that the people Proyart describes are not morally debased as previous authors suggested. Marital laws, the separation of the genders, and the punishment inflicted on adulterers are taken as proof of high morality – and thus the ease with which they could be converted.

The importance and likely success of missionary activities is one of two central arguments in the book. The other is that there is only one type of government that ensures stability and justice: hereditary monarchy. Proyart contradicts previous authors who had asserted that the kingdoms of the Loango coast were hereditary monarchies – to the contrary, he claims, all of them were elective monarchies, of despotic character no less. As Arno Sonderegger has argued, in the long history of the concept of »despotism,« its main components did not change: it was usually located in »foreign« or hostile countries and primarily referred to the injustice of certain types of government.<sup>38</sup> Aristotle already placed despotism both in the past and amongst »barbarians« in order to legitimize the current system of government in the Greek polis.<sup>39</sup> The concept was only gradually applied to Africa in the course of the eighteenth century, but it served much the same function of discrediting types of government while legitimizing others. According to Proyart, the people told the missionaries that their lives and their possessions belonged to the King; that he could dispose of their life and deprive them of it whenever he wanted and without due process or reason.<sup>40</sup>

The classification of the rulers as despotic has consequences for Proyart's understanding of slavery. While he does identify a group of people whom he terms »slaves,« he maintains that they are not at all the most dependent members of society. Since nothing attaches them to King and country, they can enter into the service of foreign princes should they not feel well treated. The »free« subjects on the other hand are obliged to pay tribute to the King,

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<sup>36</sup> PROYART (1776) 2; see also 157-158.

<sup>37</sup> PROYART (1776) 88-89.

<sup>38</sup> SONDEREGGER (2008) 15.

<sup>39</sup> SONDEREGGER (2008) 25, 57-59, 265.

<sup>40</sup> PROYART (1776) 119.

relative to the number of their slaves, the land they cultivate and the animals they nourish. Should the king be displeased with the »presents« he receives, he would send his slaves to take everything they had. And yet the people do not complain, Proyart notes, because they are convinced that the king, in robbing them, only exercises his right.<sup>41</sup>

Proyart also argues that the defective nature of the government – the elective monarchy (of despotic character) – increases the instances of war in this region.<sup>42</sup> It was evident to Proyart that the death of a king was tantamount to a call to arms leading to civil war.<sup>43</sup> While some kings had the right to name a designated successor, the latter's claim could be challenged after the king's death, which often resulted in years of violent conflict. According to Proyart, the type of government had other negative consequences as well: the »arts« could not be perfected and the people remained idle, as the king and his officials could always take the fruits of their labor from them: there was no incentive to be productive.<sup>44</sup>

Since there are few sources for this region, historians frequently consult Proyart's account – and the notion that »slaves« were in a better position than »free« subjects also entered scholarship, as did the author's assessment that the rules of succession led to frequent wars and lengthy interregnums.<sup>45</sup> Yet there is an argument behind Proyart's deliberations: hereditary monarchy – as prevalent in France at the time, but increasingly under attack by the book's primary villains (the »modern philosophes«) – is the desirable form of government.<sup>46</sup> Other types of government led to war, lack of progress, and the abuse of power over dependents. Therefore, for Proyart, the prevailing laws on the Loango Coast were reflections of a defective government. If the extent of punishment for a crime was an expression of this, then the fact that a sin like adultery was severely punished was a sign of the people's innate moral character: they knew what was right – they just lacked the corresponding form of government (and of course, Christianity).

When our next author, De Grandpré, published his book 25 years later, much had changed in France. The country had seen a Revolution, internal and external wars, and the rise of a general named Napoleon. The old monarchy was dead and yet a new sole ruler had taken charge.

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<sup>41</sup> PROYART (1776) 121-123; 125-126.

<sup>42</sup> The notion that monarchies could be either elective or hereditary appeared in early modern political theories, e.g. in the writings of John Locke. See SONDEREGGER (2008) 90.

<sup>43</sup> PROYART (1776) 161.

<sup>44</sup> PROYART (1776) 122-123.

<sup>45</sup> E.g. VANSINA (1970) 195-196. On the scarcity of sources see VANSINA (1970) 291-292 (fn. 20, 23); THORNTON (2020) 306 (fn. 165).

<sup>46</sup> PROYART (1776) 132-133.

## Attacking feudalism

»Is slavery anything but the right of the strongest to suppress the weakest? Could this right have been achieved in any other way except a conquest? The solution to these two questions [...] would demonstrate that these people have been conquered in a previous time, but by whom?«<sup>47</sup>

With our final case study, we remain on the Loango coast and with a French writer. Louis Marie Joseph Ohier de Grandpré (1761-1846) was a ship's captain, former slave trader and navy officer who had travelled both to Asia and to Africa in the late eighteenth century. Though we know little about him, it seems that he was arrested as a royalist in 1797 and subsequently imprisoned, only to be released in 1801 by Joseph Fouché, Napoleon's minister of police.<sup>48</sup> His *Voyage à la Côte Occidentale d'Afrique*, detailing aspects of his journey to the Loango Coast and the Cape of Good Hope in 1786 and 1787, was published in Paris in the year of his release from prison. De Grandpré polemicizes explicitly against a recent publication by the mysterious Christian Friedrich Damberger, whose account he believed to be fictitious (he calls it a novel at one point).<sup>49</sup> Once again, the reader is set up to believe that this book is about relating the »truth« from someone who has first-hand-experience in the region described. De Grandpré never mentions Proyart's compilation, despite the fact that his book deals with the same region.<sup>50</sup> It is nevertheless plausible that De Grandpré had read Proyart, as he discusses many of the same topics, and quite often in the very same order.

Like Proyart, De Grandpré describes the rulers in this region as »despotic,« but unlike Proyart, he identifies only one kingdom as an elective monarchy: aside from the kingdom of Loango, all other kingdoms were – according to De Grandpré – hereditary monarchies.<sup>51</sup> The special status he accorded Loango was not arbitrary, and we will come back to it. For now, we note that De Grandpré also claims that all people (including the »suzerains,« or liege Lords) are in principle the King's slaves, while the population of a particular region is in principle slave to the liege lord. Because the liege lords are also the king's slaves, both the king and the highborn princes (princes-nés) can sell them – though De Grandpré concedes that this rarely happened.<sup>52</sup> So theoretically, a particular group of people has the right to seize and sell members of the population, while even people of high social standing can meet the same fate at the hands of the king.

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<sup>47</sup> DE GRANDPRÉ (1801) 220.

<sup>48</sup> The available information about de Grandpré's can be found in LOBLIGEIS (2009), BERTUCH/REICHARD (eds.) (1803) 257-259; RIPLEY/DANA (eds.) (1869) 410-411.

<sup>49</sup> DE GRANDPRÉ (1801) 4-31. The evaluation of Damberger's book as a »hoax« was widely shared, see SHAW (2018).

<sup>50</sup> Proyart focuses on the kingdom of Kakongo and De Grandpré on the Kingdom of Loango – nevertheless, they both often generalize to include all kingdoms north of the Zaire River. Also noted by THORNTON (2010) 307 (fn. 171).

<sup>51</sup> DE GRANDPRÉ (1801) 164.

<sup>52</sup> DE GRANDPRÉ (1801) 107, 110 163, 178, 183, 196, 208.

The author further states that the only instance in which the liege lord makes use of his right to sell his vassals/slaves (he frequently uses the terms interchangeably) is as punishment for misbehavior – he does so, because the dependent in question might otherwise seek asylum with another liege lord. According to De Grandpré, the judicial code is very simple and very short: for every crime against society there is a punishment:

»The law is clear; has he killed? He is put to death; has he severely injured someone? He has to pay a slave; has he stolen? He has to pay; has he committed adultery? He owes [the value of a slave] to the plaintive husband; has he sold a black who is not his? He is put to death, or furnishes a vassal in his place.«<sup>53</sup>

Note that there is not a single instance in this passage where the culprit is actually sentenced to slavery! And yet elsewhere, De Grandpré notes that even liege lords could be condemned to death or slavery, though they did have the right to deliver one of their »main mortables« in their place.<sup>54</sup>

The use of the terms »main mortable« and »main morte« (as well as the term »suzerain«) already indicates the close connection De Grandpré establishes between pre-revolutionary French society and the African societies he describes. In some passages, he uses the terms »esclave« and »main-mortable« (which corresponds roughly to the German »Leibeigene(r)«) interchangeably.<sup>55</sup> De Grandpré notes: »[...] one finds among these people exactly the same feudal laws that existed among us in previous times.«<sup>56</sup> It follows from this analogy that pre-revolutionary French society was also an unjust political order that consisted of various dependencies analogous to »slavery.« Indeed the analogy between »main morte« and »esclavage« was not De Grandpré's invention – to the contrary, it can be considered an integral part of the debate about feudalism in late eighteenth century France (and elsewhere).<sup>57</sup>

All of these deliberations reinforced the legitimacy and superiority of current French society that had been »freed« from feudalism. The French Revolution derived much of its legitimacy from the argument that it had abolished or destroyed feudal structures – despite the fact that many dependencies remained intact in practice. At the time of De Grandpré's publication, the fear that feudal laws could return to France was still widespread – and Napoleon indeed felt it necessary to legitimate his own authority by upholding this central accomplishment of the Revolution.<sup>58</sup> De Grandpré holds up a mirror: he describes societies that are still in the thrall of feudalism as a negative template. However, De Grandpré's evaluation of the political structures on the Loango Coast is overall ambivalent, as he oscillates between praising their type of government and the legal conventions that came with it, and discrediting them.

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<sup>53</sup> DE GRANDPRÉ (1801) 216, 211.

<sup>54</sup> DE GRANDPRÉ (1801) 210.

<sup>55</sup> DE GRANDPRÉ (1801) 212.

<sup>56</sup> DE GRANDPRÉ (1801) xxvii-xxviii.

<sup>57</sup> VAN DEN HEUVEL (1988).

<sup>58</sup> VAN DEN HEUVEL (1988) 37, 40, 46.

In part, the ambivalence connects to De Grandpré's broader theory about the historical origin of the states on the Loango coast: he argues that the people in this region had previously been conquered by Romans who had introduced the legal and feudal systems – and with them, slavery. He identifies the kingdom of Loango – as we saw before, the only »elective monarchy« among the kingdoms – as the nucleus of this Roman conquest.<sup>59</sup> The idea that perceived cultural accomplishments in African societies were the result of outside influence would come to dominate European ideas about African historical developments in the course of the nineteenth century and well into the twentieth.<sup>60</sup> According to De Grandpré's theory, when the people of Loango punished a crime with slavery, they did so in accordance with laws that went back to their Roman founders. This made the people of this region »superior« to others, in particular those of Southern Africa, who were untouched by Roman influence. It is nevertheless clear to De Grandpré that French influence was now needed in order to change the system introduced almost 2000 years before. Just like France, the kingdoms north of the Zaire River needed to be liberated from feudalism. This could only be accomplished by establishing colonies – and he closes with the hope that this will soon be accomplished and the people be freed from slavery and exploitation.<sup>61</sup>

## Re-assessing »slavery as punishment«

When looking at European writings about African societies, one has to be careful not to create coherence where there was none. We have seen that none of our four authors was entirely consistent about which crimes were punished with »slavery« in the societies described – even if they were clear in one instance, other passages in the text usually complicated or directly contradicted the statement. There are several reasons for this. For one thing, our authors usually collected information like this from somewhat random informants. Even if they witnessed legal proceedings themselves, they still relied on interpreters. Linguistic difficulties and misunderstandings likely occurred. For another, our authors may have received conflicting information from different informants. Given that all authors tended to generalize, they may have conflated statements made by members of different societies. Speaking about generalizations, we should not forget that authors had usually read previous works written by other travelers and compilers – not only concerning the region about which they were

<sup>59</sup> He hypothesizes that this happened during the Punic Wars. DE GRANDPRÉ (1801) 57-58, 169, 220. Several passages in the book try to establish that the Congo language derived from Latin, most notably 205-206. De Grandpré also saw his theory confirmed by local »fables« – it would seem that John Thornton accepts his statement as a reliable rendering of local oral traditions. See THORNTON (2020) 307.

<sup>60</sup> Known under the heading of »Hamitic theories« or »invasion theories,« origins were preferably located in Egypt or in the Arab world. See SANDERS (1969), LAW (2009), ROBINSON (2016).

<sup>61</sup> DE GRANDPRÉ (1801) 224-225. On the alliance between abolitionist arguments and colonialist aspirations see HUZZEY (2012), PÉTRÉ-GRENOUILLEAU (2004).

writing, but also concerning others (and not just in Africa). As we have seen, the underlying assumption of anthropological sameness – coupled with an increasing conviction that recent European developments were both singular and superior – impacted how they understood particular practices, what questions they asked, and how they assessed the information they gathered.

Although a lack of coherence can also be found elsewhere in the texts, we can still identify arguments in them, which – as I have tried to show in this paper – also influenced how the authors narrated »slavery as punishment.« These arguments reflect discursive trends within the author's community – and also help us to understand some of their contradictory statements. While Matthews first writes about »slavery as punishment« in a somewhat dispassionate manner – thereby creating the impression that he was relating objective facts about the coastal societies around Sierra Leone – he later instrumentalizes this information to argue that the slave trade could be justified on moral grounds. He starts to generalize excessively and becomes bolder in his statements. In all of Africa, he concludes, the legal system was such that people were put to death for no reason at all. The slave trade provided an alternative: alleged »criminals« could also be sentenced to slavery, sold to Europeans, and brought to the Americas. Thus, they were saved.

The other three case studies are somewhat more complex, as their arguments are not as obviously connected to slavery. I have tried to show that debates about the nature of feudalism, political theories, or changing notions of what constituted »knowledge« also had a bearing on how the authors understood »slavery« in African societies – including the notion of »slavery as punishment.« Winterbottom zooms in on witchcraft because he blames witchcraft beliefs for his lack of access to local medical knowledge. He argues that Africans have an incorrect understanding of cause and effect. Where the European medic sees bodily functions and environmental factors as a cause for sickness and death, Africans according to the author attribute both to human actors. This is reflected in their laws that inflict harsh punishments on those who allegedly harm others through »witchcraft.« The connection between medicine and »magic« in the societies under investigation also link them to past societies and current non-European ones and thus serves to support the idea that current European ways of producing knowledge (»science«) are superior.

In a similar way, De Grandpré's argument that the feudal system among the societies of the Loango coast is identical to European (and especially the recently overcome French) feudal systems establishes the superiority of current French society that had »destroyed« the feudal system. Not only does he adopt the blending of »slave« and »main mortable« from current discussions about the nature of feudalism and also adds the term »vassal« to the mix as a synonym – the categories »slave« and »slavery« become entirely nebulous. While he stresses the right of political authorities (both seigneurial and royal) to dispose of their »vassals« as they see fit, De Grandpré uses »the law« as a way of softening this seemingly arbitrary arrangement. The despotic nature of government may give them this right, but in practice one disposes of one's dependents only when they misbehave – that is, when they commit a crime. The fact that they have a clear legal system and comply with it is important to De Grandpré



because it supports his theory of Roman conquest. The Romans had brought the law, the feudal system and slavery – and the people still practiced all three out of tradition. This made them »less barbarous« than other Africans (especially the »Hottentots«/Khoikhoi of Southern Africa), but still in need of a new, French impact in order to free them from the outdated Roman baggage.

Where De Grandpré calls for the establishment of colonies on the Loango coast, Proyart tries to strengthen missionary activities with his compilation that glorified (and by all accounts grossly exaggerated) the success of previous French missions in the region. His focus on adultery (which we do not find in De Grandpré's text) as a crime that was severely punished (with slavery) clearly connects to this goal, as he uses it to establish the population as highly moral and thus susceptible to the message of Christianity. This attempt to paint the people in a positive light nevertheless conflicts with his second argument that is directed against the »modern philosophes,« namely that hereditary monarchy is the best form of government. With this argument comes a more negative portrayal both of political and of legal practices – a conflict that he tries to resolve by separating the innate »goodness« of the people from these structures. Classifying societies according to »type of government« also went with certain assumptions about these types of government – we saw that Proyart believed that »elective monarchies« necessarily led to repeated warfare and chaos, and to legal conventions that encouraged the abuse of power.

I propose that looking at European writings about African societies in this manner opens up important fields of inquiry that can be productive for legal historians. We have seen that a variety of topics connected to European understandings of African legal practices – for example abolitionist debates, ideas of scientific knowledge and progress, political theories or theories about the historical development of societies. The four case studies I presented in this paper are not exceptions or singular cases, though they do all follow their own logic. We not only find the themes and arguments they put forth in the works of other authors who visited Atlantic Africa, but also in works that had no direct relation to Africa at all. Identifying these broader discursive patterns and assessing how they operated would, in the long run, also help us to develop a more nuanced evaluation of European statements about African legal practices.

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